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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte CHARLES A. MCBRIAN, DARRICK P. BROWN, and
KENNETH P. SUNDERMEYER

Appeal 2009-007304
Application 10/688,062[1]
Technology Center 2400

Before HOWARD B. BLANKENSHIP, JEAN R. HOMERE, and
STEPHEN C. SIU, *Administrative Patent Judges*.

HOMERE, *Administrative Patent Judge*.

DECISION ON APPEAL[2]

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[1] Filed on October 17, 2003. The real party in interest is Adobe Systems Inc. (Br. 2.)

[2] The two-month time period for filing an appeal or commencing a civil action, as recited in 37 C.F.R. § 1.304, or for filing a request for rehearing, as recited in 37 C.F.R. § 41.52, begins to run from the "MAIL DATE" (paper delivery mode) or the "NOTIFICATION DATE" (electronic delivery mode) shown on the PTOL-90A cover letter attached to this decision.

I. STATEMENT OF THE CASE

Appellants appeal under 35 U.S.C. § 134(a) (2002) from the Examiner's final rejection of claims 1 through 20. (Br. 2.) We have jurisdiction under 35 U.S.C. § 6(b) (2008).

We reverse.

Appellants' Invention

Appellants invented a method and computer program product for staging file assets (i.e., web page changes, new web content, movie files, images, documents, or the like) on a live web server. (Spec. 2, ¶ [0004].)

Illustrative Claim

Independent claim 1 further illustrates the invention as follows:

1. A method for staging file assets on a live server comprising:

detecting an index page of said server;

creating a staging folder within a file system of said server, wherein said staging folder does not default to a directory listing of said file system when accessed;

inserting a randomized string into a name of said file assets to be staged; and

storing said file assets in said staging folder.

Prior Art Relied Upon

The Examiner relies on the following prior art as evidence of unpatentability:

Nakano	6,792,454 B2	Sep. 14, 2004 (filed Sep. 27, 2002)

Rejection on Appeal

The Examiner rejects claims 1 through 20 under 35 U.S.C. § 102(e) as being anticipated by Nakano.

Appellants' Contentions

Appellants contend that the preamble of independent claim 1 is entitled to patentable weight. (Br. 8.) In particular, Appellants argue that the "live server" recited in the preamble of independent claim 1 should be given patentable weight because the body of the claim depends on the preamble for completeness. (*Id.* at 8-9.) Next, Appellants contend that Nakano's disclosure of utilizing a Uniform Resource Locator (hereinafter "URL") request with a mapping rule in order to append a document root to the resulting pathway, does not teach "detecting an index page of said server," as recited in independent claim 1. (*Id.*) In particular, Appellants argue that while Nakano's URL contains an "index.html," it does not teach that the live server detects the index page. (*Id.* at 9-10.)

Further, Appellants allege that Nakano's disclosure of multiple users submitting their work product to the staging area in order to compare and change their work product, does not teach "creating a staging folder within a file system of said server, wherein said staging folder does not default to a directory listing of said file system when accessed," as recited in independent claim 1. (*Id.* at 10.) Appellants also contend that Nakano's disclosure of a production web server containing a file for a live web page cannot be construed as the claimed "staging folder" because the production web server does not meet the definition of a staging folder/area (i.e., a folder in which proposed content is located prior to finalizing and uploading to the live web server, which is not easily accessible by the general public). (*Id.*)

Additionally, Appellants argue that Nakano's disclosure of copying the staging areas into edition areas in order to create an edition of a website does not teach a staging folder that does not default to a directory listing of the file system when accessed. (*Id.* at 10-11.)

Moreover, Appellants allege that Nakano discloses adding a randomly generated number to a generation identification (hereinafter "ID") in order to create a new parent generation ID, whereby the new ID refers to a particular area (i.e., work area, staging area, or an edition area). (*Id.* at 11-12.) Therefore, Appellants contend that Nakano's disclosure does not teach "inserting a randomized string into a name of said file assets to be staged," as recited in independent claim 1. (*Id.* at 12.) Finally, Appellants argue that Nakano's disclosure of manipulating files or information that are already in the staging folder does not teach "storing said file assets in said staging folder," as recited independent claim 1. (*Id.*) Appellants also argue that since Nakano's disclosure fails to teach that the staging file is located on the live server, Nakano's disclosure cannot teach that the file assets are stored in the staging folder. (*Id.*)

Examiner's Findings and Conclusions

The Examiner finds that Nakano discloses a web development environment that teaches Appellants' claimed invention. (Ans. 5.) In particular, the Examiner finds that Nakano's disclosure of a website development system connected to the Internet teaches a live server, or live web server. (*Id.*) The Examiner also finds that Appellants failed to explicitly define a live server, or live web server, in the present Specification. (*Id.*) Further, the Examiner finds that Nakano's disclosure of creating a staging area, in conjunction with storing content in staging

folders, teaches a staging folder on a live server. (*Id.* at 5-6.) Additionally, the Examiner finds that Nakano's disclosure of a URL request amounts to the detection of an index file and, therefore, teaches "detecting an index page of said server," as recited in independent claim 1. (*Id.* at 6.)

Moreover, the Examiner finds that Nakano's disclosure of a website development system connected to the Internet, which includes a public staging area, teaches "creating a staging folder within a file system of said server, wherein said staging folder does not default to a directory listing of said file system when accessed," as recited in independent claim 1. (*Id.*) The Examiner also finds that Nakano's disclosure of creating a generation ID by utilizing a random generation of a unique set of numbers associated with a related generation ID, teaches "inserting a randomized string into a name of said file assets to be staged," as recited in independent claim 1. (*Id.*) Finally, the Examiner finds that Nakano's disclosure of storing content in staging folders teaches "storing said file assets in said staging folder," as recited independent claim 1. (*Id.*)

II. ISSUE

The pivotal issue before us is whether Appellants have shown that the Examiner erred in finding that Nakano anticipates independent claim 1? In particular, the issue turns on whether Nakano teaches "said staging folder does not default to a directory listing of said file system when accessed," as recited in independent claim 1.

III. FINDINGS OF FACT

The following Findings of Fact (hereinafter "FF") are shown by a preponderance of the evidence.

Nakano

1. Nakano generally relates to a method for managing hierarchical files that can be utilized as a website development tool. (Col. 1, ll. 17-20.)

2. Nakano discloses that "[a] staging area is a read-only file system that supports select versioning operations." (Col. 2, ll. 48-49.) Further, Nakano discloses that various users integrate their work by transmitting the contents of their work area to the staging area. (*Id.* at ll. 49-51.) Nakano discloses that developers use the staging area to compare their work and determine how the changes fit together. (*Id.* at ll. 51-52.)

3. Nakano's figure 1 depicts "a computer network (100) for website development." (Col. 4, ll. 58-59.) In particular, Nakano discloses a development server (130) that implements website development by executing a website development software module (135). (Col. 5, ll. 5-9.) Further, when a website is ready to be posted on the World Wide Web ("WWW") or an Intranet, Nakano discloses that the development server (130) transmits the website to the production web server (170). (*Id.* at 5, ll. 19-22.) Nakano discloses that the production web server (170) provides Internet or Intranet access to the website. (*Id.* at ll. 22-23.)

4. Nakano's discloses creating a main branch when installing the website development software on the development server. (Col. 7, ll. 22-23.) In particular, Nakano's figure 4 depicts that the main branch (400) includes both an empty staging area (420) and empty edition area (430). (*Id.* at ll. 23-25.)

IV. ANALYSIS

Claim 1

Independent claim 1 recites, in relevant part, "said staging folder does not default to a directory listing of said file system when accessed."

As detailed in the Findings of Fact section above, Nakano discloses a website development tool. (FF 1.) In particular, Nakano discloses a computer network that includes a development server capable of developing a website. (FF 3.) When a website is ready to be posted on the WWW or an Intranet, Nakano discloses that the development server transmits the website to a production web server. (*Id.*) Nakano discloses that the production web server provides Internet and Intranet access to the website. (*Id.*) Further, Nakano discloses a staging area that enables multiple users to submit, compare, and change their respective work so that it fits together properly. (FF 2.) Nakano discloses that the staging area is located in the main branch of the development server. (FF 4.)

We find that Nakano's disclosure teaches a development server that develops a website before transmitting the website to a production web server. In particular, we find Nakano's disclosure teaches that the development server includes a staging area that allows multiple users to develop a website by collecting, comparing, and changing their respective work product. However, we agree with Appellants that Nakano fails to teach or suggest a staging folder that does not default to a directory listing of a file system when accessed by a potential user. (Br. 10-11.) While Nakano's development server includes a staging area that allows multiple users to develop a website, it is silent as to whether or not the staging area defaults to a directory listing of a file system when accessed by a potential

user. Absent a showing that Nakano's staging area does not default to a directory listing of a file system when accessed by a potential user, we find that the Examiner improperly relied upon Nakano's disclosure to teach the disputed limitation.

Since Appellants have shown at least one error in the rejection of independent claim 1, we need not reach the merits of Appellants' other arguments. It follows that Appellants have shown that the Examiner erred in finding that Nakano anticipates independent claim 1.

Claims 2 through 20

Because independent claims 8 and 14, and dependent claims 2 through 7, 9 through 13, and 15 through 20, also recite the limitation discussed above, we find that Appellants have also shown error in the Examiner's rejection of these claims for the reasons set forth in our discussion of independent claim 1.

V. CONCLUSIONS OF LAW

Appellants have shown that the Examiner erred in rejecting claims 1 through 20 as being anticipated under 35 U.S.C. § 102(b).

VI. DECISION

We reverse the Examiner's decision to reject claims 1 through 20.

REVERSED

Vsh

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